

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44*bis*)

Applicant's or agent's file reference 075234.0285	FOR FURTHER ACTION	See item 4 below
International application No. PCT/US2007/009383	International filing date (<i>day/month/year</i>) 17 April 2007 (17.04.2007)	Priority date (<i>day/month/year</i>) 18 April 2006 (18.04.2006)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant CFPH, LLC		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 *bis*.1(a).
2. This REPORT consists of a total of 6 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44*bis*.3(c) and 93*bis*.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44*bis* .2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 82 70	Date of issuance of this report 22 October 2008 (22.10.2008) Authorized officer <div style="text-align: center; font-weight: bold; font-size: 1.2em;">Nora Lindner</div> e-mail: pt11.pct@wipo.int
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PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To: Samir A. Bhavsar
Baker Botts LLP
2001 Ross Avenue
Dallas, Texas 75201

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year)

07 NOV 2007

Applicant's or agent's file reference
075234.0285

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US 07/09383

International filing date (day/month/year)

17 April 2007 (17.04.2007)

Priority date (day/month/year)

18 April 2006 (18.04.2006)

International Patent Classification (IPC) or both national classification and IPC

IPC(8) - G06Q 40/00 (2007.01)

USPC - 705/35

Applicant CFPH, LLC

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US
Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450, Alexandria, Virginia 22313-1450
Facsimile No. 571-273-3201

Date of completion of this opinion

01 October 2007 (01.10.2007)

Authorized officer:

Lee W. Young

PCT Helpdesk: 571-272-4300
PCT OSP: 571-272-7774

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

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Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:
☒ the international application in the language in which it was filed.
☐ a translation of the international application into _____ which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).
2. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ on paper
☐ in electronic form
 - c. time of filing/furnishing
☐ contained in the international application as filed
☐ filed together with the international application in electronic form
☐ furnished subsequently to this Authority for the purposes of search
4. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
5. Additional comments:

**WRITTEN OPINION OF THE
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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-17	YES
	Claims	none	NO
Inventive step (IS)	Claims	none	YES
	Claims	1-17	NO
Industrial applicability (IA)	Claims	1-17	YES
	Claims	none	NO

2. Citations and explanations:

Claims 1-8, 10-11 and 14-16 lack an inventive step under PCT Article 33(3) as being obvious over US 2006/0069635 A1 to Ram et al. (hereinafter .Ram.) in view of US 2002/0153656 A1 to Maksymec et al. (hereinafter .Maksymec.).

Regarding claim 1, Ram discloses a system for trading a plurality of derivative financial instruments (para [0042], [0478] and [0498]), comprising:

A processor (para [0024]) operable to:

Receive a first order to buy a derivative financial instrument that represents a user (para [0042]-[0044]);

Receive a second order to sell the derivative financial instruments (para [0043]-[0044], orders suggests a second order);

Determine a market price based at least in part of the first order and the second order (para [0043]-[0046], [0205], [0498] and [0524]); and

Execute a trade (para [0171]) at the determined market price; and

A memory (para [0042], computer has memory) operable to store the first order and/or the second order (para [0205], [0229] and [0284];

See claim 4).

Ram does not expressly disclose that the instrument represents a contestant in a contest. Maksymec, however, discloses the instrument represents a contestant in a contest (para [0002] and [0083]).

One skilled in the art would recognize the financial advantage of automating the contest through the used of a processor. It would therefore have been obvious to one of ordinary skill in the art to combine Maksymec and Ram as it provide an automated contest in addition to providing a contest for the most successful investor.

Regarding claim 2, Ram and Maksymec disclose the system of claim 1. Ram further discloses wherein the derivative financial instrument is associated with an initial price; and the initial price is based at least in part on at least one ranking (para [0290], [0295] and [0466], ranking done with respect to bid prices) and/or achievement. Maksymec discloses that the ranking and achievement is associated with the contestant (para [0002]-[0003]; See Fig 1 and 2).

Regarding claim 3, Ram and Maksymec disclose the system of claim 1. Ram further discloses wherein the processor is further operable to adjust (para [0198], adjusting including prices) the market price associated with the derivative financial instrument, wherein the adjustment is based at least in part on a result. Ram does not disclose a contest. Maksymec, however, discloses that the result is associated with at least one stage of the contest (para [0003] and [0063], where a stage could include half-time).

Regarding claim 4, Ram and Maksymec disclose the system of claim 1. Maksymec further discloses wherein the adjustment is made after each stage of the contest (para [0068] i.e., add more bets).

Regarding claim 5, Ram and Maksymec disclose the system of claim 1. Ram further discloses wherein the processor is further operable to:

Adjust the market price associated with the derivative financial instrument.

Ram does not expressly disclose the contest.

Maksymec, however, discloses the processor is further operable to:

Determine that the contestant was eliminated from the contest (para [0083]); and

adjust the market price, the adjustment based at least in part on the determination that the contestant was eliminated (para [0004] and [0083], adjust by payout changes depending on bet versus point spread; a tournament suggests loser of a game exits tournament and automated knowledge that is computerized to determine this is suggested). It would have been obvious to one of ordinary skill in the art to combine Ram and Maksymec because it provides for automation of the contest through the use of a processor.

Regarding claim 6, Ram and Maksymec disclose the system of claim 5. Maksymec further suggests and discloses wherein: the contestant was eliminated in a particular stage of the contest (para [0083]); and the adjustment is based at least in part of the particular stage of the contest (para [0004] and [0083]). It would have been obvious to one of ordinary skill in the art to combine Ram and Maksymec because it provides for automation of the contest through the use of a processor.

--See Supplemental Box --

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:
Box V. 2 Citations and explanations

Regarding claim 7, Ram and Maksymec disclose the system of claim 1. Ram further discloses wherein the processor is further operable to:

Compare a portfolio of derivative financial instruments associated with a first trader against a portfolio of derivative financial instruments associated with a second trader (para [0104]-[0108] and [0601]); and Determine a winning trader (para [0289]), the determination based at least in part on the comparison. Ram does not expressly disclose a winning trader based on a portfolio, however, Maksymec discloses a contest in which a winning trader would be selected. It would have been obvious to one of ordinary skill in the art to combine Ram and Maksymec because it provides for automation of the contest through the use of a processor.

Regarding claim 8, Ram and Maksymec disclose the system of claim 1. Maksymec further discloses wherein:

The contest represents a sports tournament (para [0003], [0005] and [0083]); and
The contestant represents an athlete and/or team in a sports tournament (para [0027]-[0028]). It would have been obvious to one of ordinary skill in the art to combine Ram and Maksymec because it provides for automation of the contest including sports, which are popular.

Regarding claim 10, Ram and Maksymec disclose the system of claim 1. Maksymec further discloses wherein:

The contest represents an awards event; and
The contestant represents at least one nominee for an award (para [0002]-[0004] and [0083]; See claim 53, awards for sporting events with teams for nomination based on tournament and entry). It would have been obvious to one of ordinary skill in the art to combine Ram and Maksymec because it provides for contests including awards i.e. MVP for sporting events.

Regarding claim 11, Ram and Maksymec disclose the system of claim 1. Maksymec further discloses wherein:

the contest represents a political event; and the contestant represents at least one politician associated with the political event (para [0003], [0038] and [0039]). It would have been obvious to one of ordinary skill in the art to combine Ram and Maksymec because it provides for political contests, which are popular.

Regarding claim 14, Ram and Maksymec disclose the system of claim 1. Ram further discloses wherein the processor is further operable to:

determine a redemption value associated with the derivative financial instrument (para [0042]-[0043] and [0498]); and adjust (para [0198]) the redemption value associated with the derivative financial instrument. Ram does not expressly disclose the contest. Maksymec, however, discloses to adjust the redemption value, wherein the adjustment is based at least in part on a result associated with at least one stage of the contest (para [0002] and [0083]).

Regarding claim 15, Ram and Maksymec disclose the system of claim 14. Ram further discloses wherein the redemption value represents the maximum value for which an exchange will redeem a share of the derivative financial instrument (para [0498], [0657] and [0705]).

Regarding claim 16, Ram and Maksymec disclose the system of claim 1. Ram further discloses wherein:

the first order was received from a first trader (para [0042] and [0149]);
the derivative financial instrument represents a first derivative financial instrument (para [0478] and [0498]); the first trader is associated with a portfolio comprising a plurality of shares of one or more derivative financial instruments (para [0104]-[0108] and [0198]); and the processor is further operable to reject the first order if execution of the first order would cause the portfolio to comprise more than a configurable threshold of shares of the first derivative financial instrument (para [0024], [0042], [0438] and [0439], computer processor and maximum shares allowed suggests processor does not permit more than maximum).

Claim 9 lacks an inventive step under PCT Article 33(3) as being obvious over Ram in view of Maksymec and further in view of US 2006/0003830 A1 to Walker et al. (hereinafter .Walker.).

Ram and Maksymec disclose the system of claim 1. Neither Ram and Maksymec expressly discloses the system relating to reality-based television shows. Walker, however, discloses a system, wherein:

The contest represents a reality-based television show (para [0174]; See Table 1); and
The contestant represents a participant in the reality-based television show (para [0170] and [0174], actor and performing; See Table 1, reality tv). One skilled in the art would recognize the financial advantage of using a contest in relation to a reality tv show. Therefore it would have been obvious to one of ordinary skill in the art to combine Ram and Maksymec with Walker because the combination provides an automated system for tracking selections of contestants with respect to reality-based television contests, making the system marketable, and thus profitable.

Claim 12 lacks an inventive step under PCT Article 33(3) as being obvious over Ram in view of Maksymec and further in view of US 2004/0171381 A1 (Inselberg). Ram and Maksymec disclose the system of claim 1. Neither Ram nor Maksymec expressly discloses that the contest represents a survey or related to at least one public figure. Inselberg, however, discloses a system, wherein: The contest represents a survey (para [0042]); and the contestant represents at least one public figure associated with the survey (para [0044], sports players are public figures, political rallies suggest politicians). One skilled in the art would recognize the financial advantage of associating a public figure with a contest. It would therefore have been obvious to one of ordinary skill in the art to combine Maksymec and Ram with Inselberg in order to automate a competition based on survey opinions of celebrities, politicians and other public figures.

---See Supplemental Box---

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box V. 2. Citations and explanations

Claims 13 and 17 lack an inventive step under PCT Article 33(3) as being obvious over Ram in view of Maksymec and further in view of US 6,598,028 B1 to Sullivan et al. (hereinafter .Sullivan.).

Regarding claim 13, Ram and Maksymec disclose the system of claim 1. Ram further discloses wherein:

The first order was received from a first trader, the first trade associated with a first account of electronic currency;

The second order was received from a second trader, the second trader associated with a second account of electronic currency; and

The processor is further operable to:

credit the first account with the proceeds of the executed trade.

Ram and Maksymec do not expressly disclose debiting and crediting accounts according to the executed trade. Sullivan, however,

discloses that the processor is further operable to:

Debit the first account according to the executed trade (col 9, ln 20-43, debit an account); and Credit the second account with proceeds of the executed trade (col 9, ln 20-43, credit an account, second account disclosed and obviated).

One skilled in the art would recognize the advantage of debit and crediting accounts. It would therefore have been obvious to one of ordinary skill in the art to combine Maksymec and Ram with Sullivan in order to automate a competition and debit and credit the appropriate accounts.

Regarding claim 17, Ram and Maksymec disclose the system of claim 1. Ram further discloses wherein:

The first order was received from a first trader; and

The processor is further operable to:

Receive a passcode (para [0015], four-letter identifier may be a passcode) from the first trader, wherein the passcode is associated with a purchase. Ram does not expressly disclose the passcode is associated with the purchase of a product or denying access for incorrect passcodes. Sullivan, however, does disclose and suggest wherein the passcode is associated with a purchase of a product; and Deny the first trader access to a system if the passcode is invalid (col 8, ln 15, password use also implies denying access for incorrect passcode).

Claims 1-17 have industrial applicability as defined by PCT Article 33(4) because the subject matter can be made or used in industry.